

Comparative Study on the Review and Processing of Domestic Extraterritorial Merger Cases and Seven Other Competition Jurisdictions

Keywords: Competition Law, Extraterritoriality, Merger, Authorization, Notification, Threshold, Jurisdiction, Procedure, Guidelines, Suspension, Penalty, Enforcement

This project aims to find out shortcomings and feasible improvements of the merger control procedure of extraterritorial cases through comparing different merger control regimes among competition jurisdictions of the United States, European Union, Japan, Korea, United Kingdom, Singapore and New Zealand. Focus of this project is the administrative guidelines for the Fair Trade Commission to process extraterritorial merger cases. Finding that there are no corresponding norms in the selected merger control regimes, the research team reviews literature about the extraterritorial application of antitrust law. First developed in the US case law and then adopted in other jurisdictions, the extraterritorial application of competition law deals mainly with remedies of anti-competitive behaviors abroad. Notifications of extraterritorial merger cases in practices, on the other hand, proceed mostly on a voluntary compliance basis. The research team further endeavors dogmatically as well as pragmatically and comes to the conclusion that this extraterritorial merger processing guidelines and other administrative guidelines should be amended and re-organized. Among other amendments are procedural accelerating, simplified formats and more transparency. Re-examing the clause of notification thresholds for merger cases in the Fair Trade Law is also recommended.